

REMARKS

Applicant respectfully requests reconsideration. Claims 30-41, 55 and 57-79 were previously pending in this application.

Claims 30, 32, 34, 38 and 74 have been amended to clarify the claim language. Support for the amendments of claims 30, 32, 34 and 38 is found throughout the specification and claims as filed. Support for the addition of exon to claim 74 is found in the specification at page 19, line 21.

Withdrawn claims 55, 57-69 and 75-79 have been canceled.

New claims 80-83 have been added. Support for the new claims can be found in the specification and claims as follows. Claim 80 finds support in the claims as filed. Claims 81 and 82 find support in the recitation of tissue specific promoters and root specific promoters at page 21, lines 21-23 of the specification. Claim 83 finds support in the recitation of yeast as a micro-organism at page 2, lines 27-28 of the specification.

As a result, claims 30-41, 70-74 and 80-83 presently are pending for examination.

No new matter has been added by the amendments to the claims.

Applicant appreciates the courtesy extended by the Examiner and his supervisor in granting an interview on October 22, 2007.

Rejections Under 35 U.S.C. § 102

1. The Examiner maintained the rejected claims 30, 32-34, 37-41 and 70-74 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,679,551 (Alderete).

Applicant has amended the claims to recite that double stranded RNA is produced in the micro-organism. Alderete does not teach such a feature, because Alderete uses the vector as a cloning vector, not a vector that produces dsRNA.

Accordingly, withdrawal of this rejection is respectfully requested.

2. The Examiner maintained the rejection of claims 30-41 and 70-74 under 35 U.S.C. § 102(b) as being anticipated by Timmons et al. (East Coast Worm Meeting Abstract 180, May 12, 1998) as evidenced by Timmons et al. (Nature 395:854, 1998).

Applicant asserts that there is no nexus between what is disclosed in the Timmons et al. Abstract and Timmons et al. article. There is nothing in either the Timmons et al. abstract or the Timmons et al. article to suggest that the methods and materials used in the abstract are the same as those described in the article.

Accordingly, withdrawal of this rejection is respectfully requested.

3. The Examiner maintained the rejection claims 30, 32-39 and 70-74 under 35 U.S.C. § 102(e) as being anticipated by the Fire et al. patent, U.S. Patent No. 6,506,559 B1.

The Fire et al. patent claims a priority date of December 23, 1997 based on US provisional application serial number 60/068,562. However, the specification of this provisional application does not recite all of the elements of Applicant's claimed invention.

In the priority document of the Fire patent, the cited passage on in vivo or in vitro production of dsRNA was intended for demonstrating how dsRNA could be produced and that throughout the priority document it is evident that the "fate" of the dsRNA is for "injection" in *C. elegans*.

There is nothing in the Fire provisional application, however, that describes the claimed micro-organism comprising an expression vector with promoters flanking a DNA sequence such that the promoters initiate transcription of said DNA sequence to produce double stranded RNA. As a result, the Fire provisional application does not teach each and every element of the claimed invention, and therefore does not anticipate the claimed invention.

Finally, with respect to the Examiner's comments that the Fire provisional application teaches a viral vector for transcription of RNA (paragraph bridging pages 8-9), Applicant notes that this embodiment may be used for transcription in a target cell (note context of this section, particularly page 12, lines 1-6, which immediately precede the section cited by the Examiner), but is not used in a micro-organism as recited in the claimed invention.

Accordingly, withdrawal of this rejection is respectfully requested.


CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
Plaetinck et al., Applicant

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